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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,743	09/19/2003	Gerhard Helmreich	P03,0351	4707
7590	05/19/2004			EXAMINER
SCHIFF HARDIN & WAITE Patent Department 6600 Sears Tower 233 South Wacker Drive Chicago, IL 60606			FASTOVSKY, LEONID M	
			ART UNIT	PAPER NUMBER
			3742	
DATE MAILED: 05/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/664,743	HELMREICH ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Leonid M Fastovsky	3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 19 September 2003.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-11 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 19 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/19/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

2. The disclosure is objected to because of the following informalities: the resistive heater layer 26 is listed as 27 (Page 5, line 23) and as 25 (Page 6, line 8).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 4 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (6,653,607) in view of Lawson (5,925,275).

Ellis teaches a patient positioning device 100 comprising a patient positioning plate 110, a planar heater 150 that is non-removably integrated in the plate 110, but does not teach a plate composed of fiber composite. Lawson discloses a heater 40 integrated in

a carbon fiber-based composite structure (col. 8, lines 19-25). It would have been obvious to one having ordinary skill in the art to modify Ellis's invention to include a carbon fiber structure to laminate the heater as taught by Lawson (col. 4, lines 19-25).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Lawson and further in view of Asami et al (6,710,313).  
Ellis in view of Lawson teaches substantially the claimed invention, but does not teach a heating module removably inserted in the plate. Asami teaches a heating module 21 being removably inserted in the seat of a vehicle (Fig. 23). It would have been obvious to one having ordinary skill in the art to modify Ellis's in view of Lawson invention to incorporate a heating module to be inserted in the plate as taught by Asami (Fig. 23) and also make it flush with an exterior contour of the plate as a conventional in the art.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Lawson.

Ellis teaches substantially the claimed invention, but does not teach an electrical conductor disposed in the fiber composite and electrically isolated by adhesive. Lawson discloses a heater 40 having electrical conductors 28 electrically isolated by adhesive layers 56 and 58. It would have been obvious to one having ordinary skill in the art to modify Ellis's invention to include conductors and adhesive layers to electrically isolate the heater as taught by Lawson (Col. 8, lines 1-10).

7. Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Lawson and further in view of Theilacker et al (5,138,138).

Ellis in view of Lawson teaches substantially the claimed invention, but is silent regarding a heating device being transparent to x-rays. Theilacker discloses a heating pad 2 having a heating conductor 16 and being pervious to x-rays. It would have been obvious to one having ordinary skill in the art to modify the invention of Ellis and Lawson to include the heating pad with a conductor being pervious to x-rays for an operating table as taught by Theilacker (Abstract, lines 1-5).

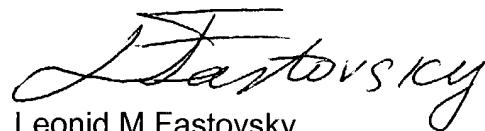
8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Lawson and further in view of Saito (JP403066370).

Ellis teaches substantially the claimed invention, but does not teach a tomography device. Saito teaches a heating medical device using a tomography (Abstract, lines 20-22). It would have been obvious to one having ordinary skill in the art to modify Ellis's invention to include a tomography device to create a tomography image as taught by Saito (Abstract, lines 20-22).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 703-306-5482. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Pothier can be reached on 703-308-0265. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Leonid M Fastovsky  
Examiner  
Art Unit 3742

lmf